

**City of Cincinnati Zoning
Board of Appeals**

Case Number: B201501084

Appellant: Matthew Sherman, Applicant and Owner

Table of Contents

	<u>Page</u>
Application	1
Justification Letter.....	2
Copy of Order being Appealed	4
Receipt of Payment	5
Statement of the Case.....	6
Exhibit A.....	8
Exhibit B.....	9
Exhibit C.....	10
Exhibit D.....	11
Exhibit E.....	12

ZONING BOARD OF APPEALS

3300 Central Parkway, Cincinnati, Ohio 45225



APPLICATION FOR APPEAL TO THE ZONING BOARD OF APPEALS

FOR OFFICE USE ONLY

File No. _____

Date Filed _____

Date of Decision _____

Appealed _____

Hearing Date _____

ZBA Decision _____

Date of Decision _____

SUBJECT PROPERTY

ADDRESS 3659 Heekin Avenue, Cincinnati, Ohio 45208

BASE ZONING CLASSIFICATION SF-6

ZONING OVERLAY Hillside District

APPELLANT Matt Sherman

TELEPHONE 382-1977

ADDRESS 3659 Heekin Avenue

CITY Cincinnati, STATE Ohio ZIP CODE 45208

EMAIL mattsherman101@gmail.com

OWNER Matt Sherman

TELEPHONE 382-1977

ADDRESS 3659 Heekin Avenue

CITY Cincinnati STATE Ohio ZIP CODE 45208

EMAIL mattsherman101@gmail.com

AUTHORITY OF APPEAL - Indicate the appropriate section of 1449-03 that qualifies you to make an appeal (a)

NATURE OF APPEAL - I am appealing a decision/order of the (indicate case #): B201501084

Director of City Planning and Buildings (1449-13) _____

Zoning Hearing Examiner (1449-15) _____

Historic Conservation Board (1449-15) _____

JUSTIFICATION FOR APPEAL - Attach a separate sheet explaining in detail the basis of your appeal.

SUBMISSION REQUIREMENTS

1. The applicant is required by Section 1449-15(b) of the Zoning Code to file within 21 days of filing notice of appeal; a complete record of the proceeding along with a transcript of all testimony.

FEES: Residential – 1, 2, & 3, Family – \$500 Multi-Family/Commercial – \$750

2. Nine copies of the complete case file, including this application and a transcript of any public hearing if applicable. No submittal will be accepted unless these materials are spiral bound or in a notebook, indexed and all pages numbered.

Signature Matt Sherman Date 7/24/15

ZBA Application -- Check list:

Phase I

- ☒ 1. Application must be made within 30 days of the mailing date of the decision / order being appealed.
- ☒ 2. Complete an Application form.
- ☒ 3. A justification letter needs to be included. (A separate sheet explaining in detail the basis of the appeal.)
- ☒ 4. Include a copy of the Decision letter or orders being appealed.
- ☒ 5. Include the receipt of payment.

Phase II

- ☒ 6. Nine copies of the complete case file are required. Copies must be spiral bound or in a notebook, indexed and all pages numbered - required at the time of application or within 21 days of application.
(See numbers 1 and 2 at the bottom of the front page.)

ZBA Case File (The nine bound copies) Includes:

- 1. **Phase I** - information required for appeal.
 - 2. **When appealing a Zoning Hearing Decision, HCB Decision, Director's Decision** - Include the complete record file (decision letter, hearing case file and acquire and provide the transcription of the hearing, receipt of payment, sign-in-sheets, etc.)
 - 3. **When appealing written orders / violation(s)** — Include all records and any documents relevant to this appeal.
-
- 7. When the complete ZBA Case File is submitted, a hearing date is scheduled. The hearing date will be confirmed when a quorum of Board Members is established.
 - 8. A notice of the hearing date will be sent by registered mail at least 10 days prior to the hearing.

Zoning Board of Appeals

7/24/2015

ZBA Application, Phase I

Case # B201501084

Justification Letter

On June 26, 2015, I received a letter from Aaron Ice of the City of Cincinnati indicating I was in violation of the Cincinnati Zoning code pursuant to 1451-01 of the code for having an illegal structure at 3659 Heekin Avenue. Mr. Ice indicated I needed to remove a small shed structure I had erected on the property in preparation for the construction of a house. I am asking the Board to consider the following explanation for the structure, in hopes the Board will find it reasonable for the shed to remain a few more months while I build a house on the property.

In 2012 the property I own at 3661 Heekin Avenue was foreclosed upon. Adjacent to that property, I own 3659 Heekin which was not on the mortgage and remains in my possession. After the foreclosure, I began making plans to build a house on the parcel, set up residence and create a construction shed by building the structure in question. Working toward this goal, I drew up plans and have done the required preliminary geotechnical report since this property fall in the Hill Side District. I was proceeding to have an engineer design the foundation appropriate for the Hill Side District.

While this was occurring, the bank sought to sell the foreclosed house at 3661 Heekin at auction. Shortly thereafter, the bank filed a lawsuit claiming the parcel at 3659 Heekin was supposed to be on the mortgage and that they were entitled to that parcel as well. The Hamilton County Court of Common Pleas did not agree and denied the banks motion. Shortly thereafter, the bank filed another motion in attempts to take 3659 from me. Again the court denied the motion. The last of these proceedings and the time period for possible appeal ended only 1 month ago.

The point of all this is that while pending, the banks proceedings against me made it impossible for me to proceed with my plans to build the house. It is my intention to now continue with the plan in the next two weeks by having the foundation engineered and submitting the plans for the house to the Building Department for a building permit. The structure in question will be incorporated into the new house, and I ask that it be allowed to remain on the property while the new house is being built.

For the Phase II part of this application, I will include the preliminary Geotechnical Report, the building plans and the engineered foundation drawings as they are available. I am respectfully asking that the board find it reasonable to allow the structure to remain on the property while the construction takes place and to consider it covered under the

permit I will soon have. I am also asking that the board find it unreasonable to have me take down the structure only to then reassemble it for the construction of the house. I would point out that while I now understand the structure is in violation of the zoning code, it is my understanding the complaint called in about the structure was made by the bank that was filing the failed motion. I look forward to presenting my plans and progress in the 9 required case file copies I am currently assembling and will submit within 21 days as mandated, as well as at a hearing on the matter

Pursuant to Chapter 1449-17 I ask that the board find it unreasonable for the structure to be removed given the entire record presented, and to modify the order to allow for more time to allow the structure to be covered under the proper permits.

Respectfully submitted on this 24th day of July, 2015.

Sincerely,
Matt Sherman
3659 Heekin Avenue
Cincinnati, Ohio 45208

City of Cincinnati

Department of Trade & Development
Division of Property Maintenance Code Enforcement



Two Centennial Plaza - 805 Central Avenue, Suite 700 - Cincinnati, Ohio 45202 - P (513) 352-3275 - F (513) 564-1708

SHERMAN MATT
3661 HEEKIN AVE
CINCINNATI OH 45208-4438

Re:3659 HEEKIN AV Auditor ID BPP: 001800030007

NOTICE OF VIOLATION

Case number: B201501084

NOTICE DATE: June 24, 2015

To: SHERMAN MATT

This letter is a notice of violation and order issued pursuant to 1451-01. Cincinnati-Ohio Zoning Code (CZC). Each code violation in the attached **violation listing** includes the action necessary to correct the violation. Unless otherwise specified in a violation, you are required to make the noted corrections by 07/24/2015 . **Please call me at 352-1929 between 8:00 - 10:00 a.m. to acknowledge receipt of this notice and ask questions.** If I do not hear from you within ten days of the date of this notice, a copy of this notice will be posted on the building. Failure to correct the noted defects within the time specified could result in civil or criminal enforcement actions.

You have a right to appeal certain orders under Sections 1449-09 CZC within 30 days of the date of this notice by filing an appeal with the Zoning Board of Appeals at 3300 Central Parkway, Cincinnati, Ohio, 45225.

Your cooperation in correcting these violations will assist the City of Cincinnati in maintaining quality housing and property conditions in your neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Ice".

Aaron Ice
District Inspector

Doc#CODE6808



VIOLATION LISTING

5/20/2015

201401234

STORAGE OF TRACTOR TRAILER / MOBILE TRAILER HOME

1400-05. (b) CZC. Discontinue storage and remove the mobile trailer home/ van at the above mentioned location. This is not a customarily incidental accessory residential use.



**Huntington**

Welcome:

ZOELI CORPORATION
3661 HEEKIN AVE
CINCINNATI, OH 45208-4438

13-1542/420

1060

Date

July 24, 2015

Pay to the
Order of

City of Cincinnati

\$ 500.00

Five hundred and 00/100

Dollars

Huntington

Memo

3659 zoning appeal

⑆042015422⑆ 01651362316⑆01060

072115 PRT 8
FIFTH THIRD BANK (0720)
404200003145
0702240872

15-6284
PAY TO THE ORDER OF
FIFTH THIRD BANK
042000314
FOR DEPOSIT ONLY
CITY OF CINCINNATI
PLANNING/CUSTOMER SERVICE 172
9890200041

Statement of the Case:

This case involves the order for removal of what has been cited as an illegal structure at 3659 Heekin Avenue. (Exhibit A). As explained in the owner's justification letter included in my Appeal application, and contained above, the structure will be used as part of a larger construction project of a single family residence on the premises. (Exhibits C,D,E). The initial intention was that this project would proceed with some efficiency and continuity of schedule, but due to extended litigation concerning the property, the process has been drawn out. Currently the litigation has been resolved in the owners favor.

The structure in question will be used as a construction office/shed during the construction of the new house and will ultimately be incorporated into the new house as a rooftop structure providing access to a roof top deck. Appellant has obtained a preliminary geotechnical report, (Exhibit B), and is working with Kowalski Engineering to design a foundation to meet the requirements of the hillside overly district in which the property lies.

CMC § 1449-17. – Decision, provides:

The Zoning Board of Appeals may find that the order, adjudication, or decision is illegal, arbitrary, capricious, unreasonable, or unsupported by the preponderance of substantial, reliable, and probative evidence on the whole record. Consistent with its findings, the board may affirm, reverse, vacate, or modify the order, adjudication, or decision, or remand the cause to the officer or body appealed from with instructions to enter an order, adjudication, or decision consistent with the findings or opinion of the Board.

Given the facts of the case, the owner asks this board to allow the structure to remain on the property for the duration of the construction process until its incorporation in the house. Appellant asks that the ZBA (Zoning Board of Appeals) find it unreasonable to require the removal of the structure when it can act as a useful part of the construction process, and will be incorporated in whole into the project, and to vacate the order for removal of the structure. In the alternative, Appellant/ owner asks that the period for the

removal of the structure be extended 6 months from the date of the ZBA hearing,
granting time for the above intentions to be met and the order requirements fulfilled.

Respectfully submitted.

Matt Sherman

3659 Heekin Avenue

Cincinnati, Ohio 45208

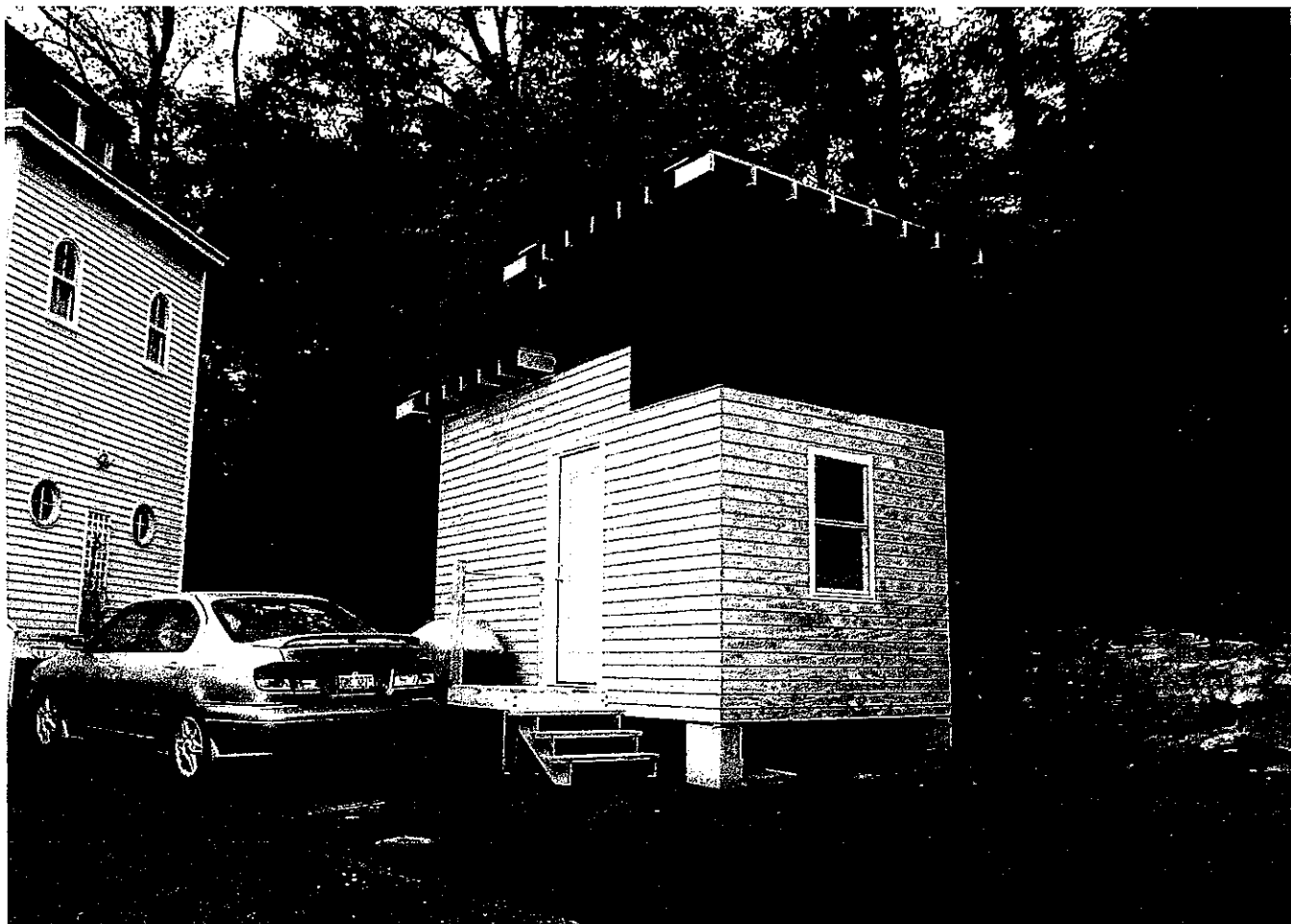


EXHIBIT A: STRUCTURE IN QUESTION.

Sherman Property

*3659 Heekin Avenue
Cincinnati, Ohio 45208*

Preliminary Geotechnical Report



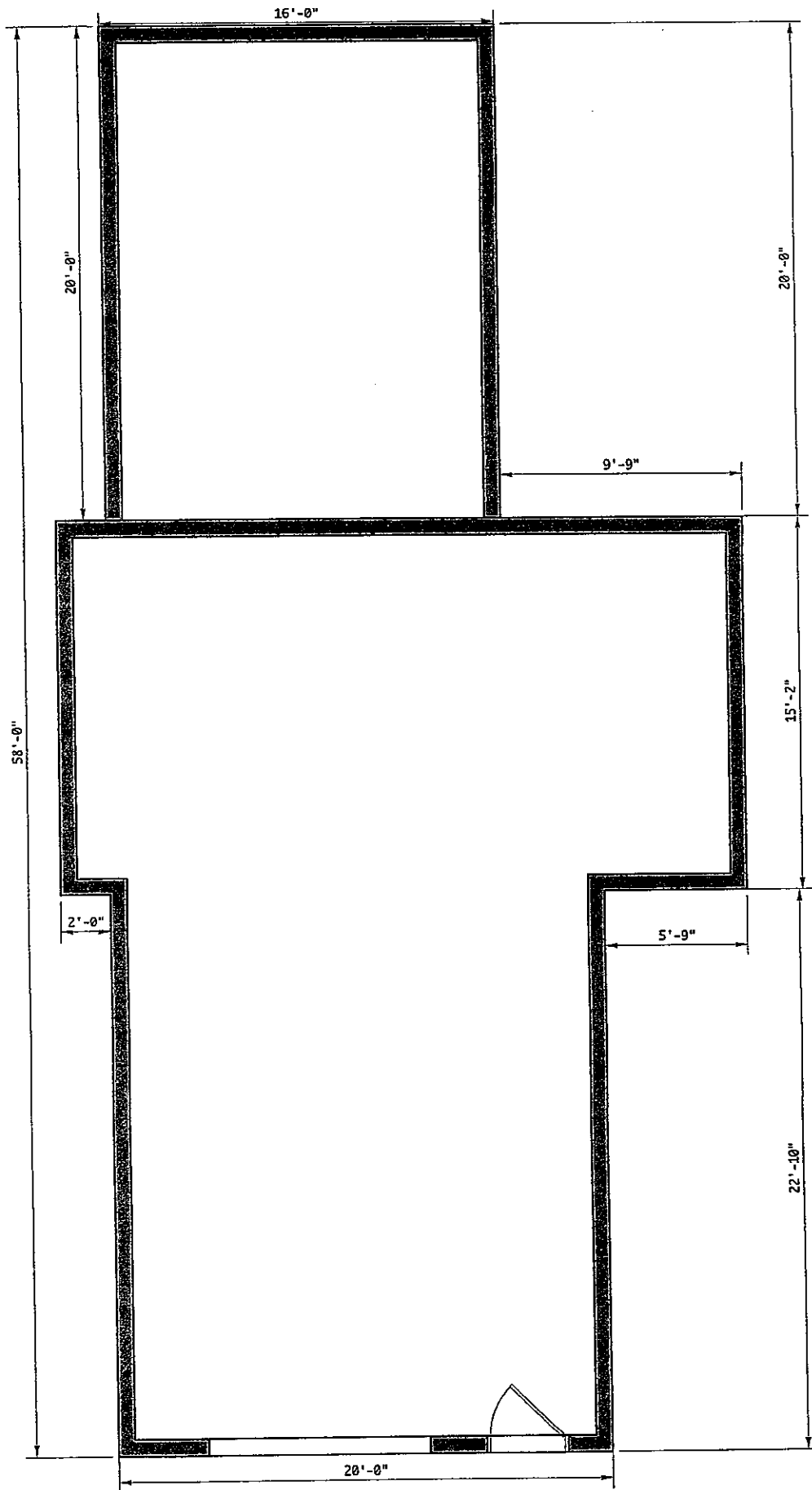
Prepared by:


Naylor Engineering, Inc.

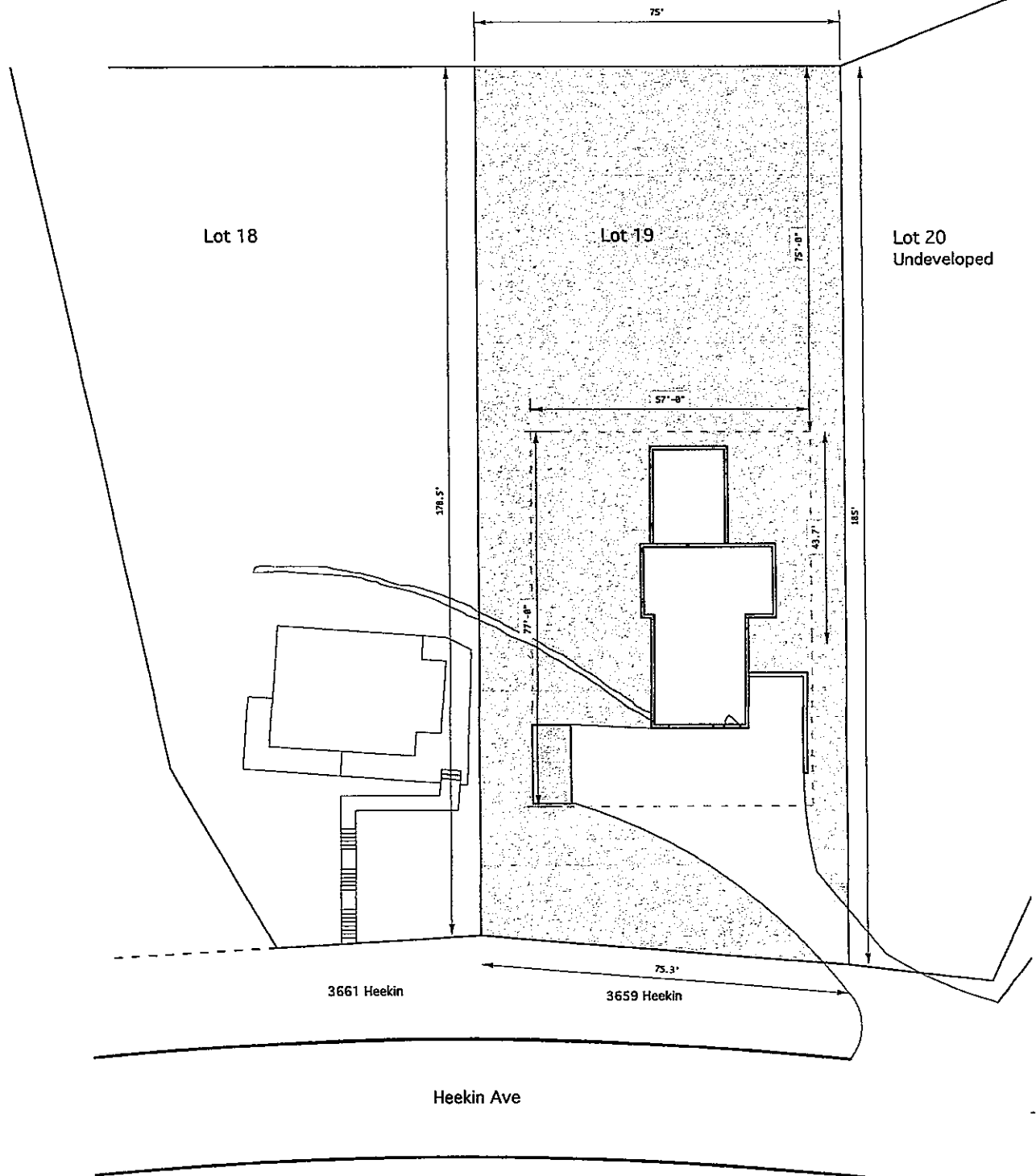
1007 Eversole Road
Cincinnati, Ohio 45230

513-233-9772 office/513-233-9776 fax

7/24/14



 <p>VISION BUILDERS GROUP 382-1977</p>	<p>Proposed House for 3659 Heekin Ave. Cincinnati, Ohio 45208</p>		<p>Sheet A1</p>
			<p>7/10/14</p>



Proposed Site Plan
Scale: 1" = 20' 0"

3659 Heekin Avenue
Current zoning: SF-6

Legend:
Hillside Building Envelope

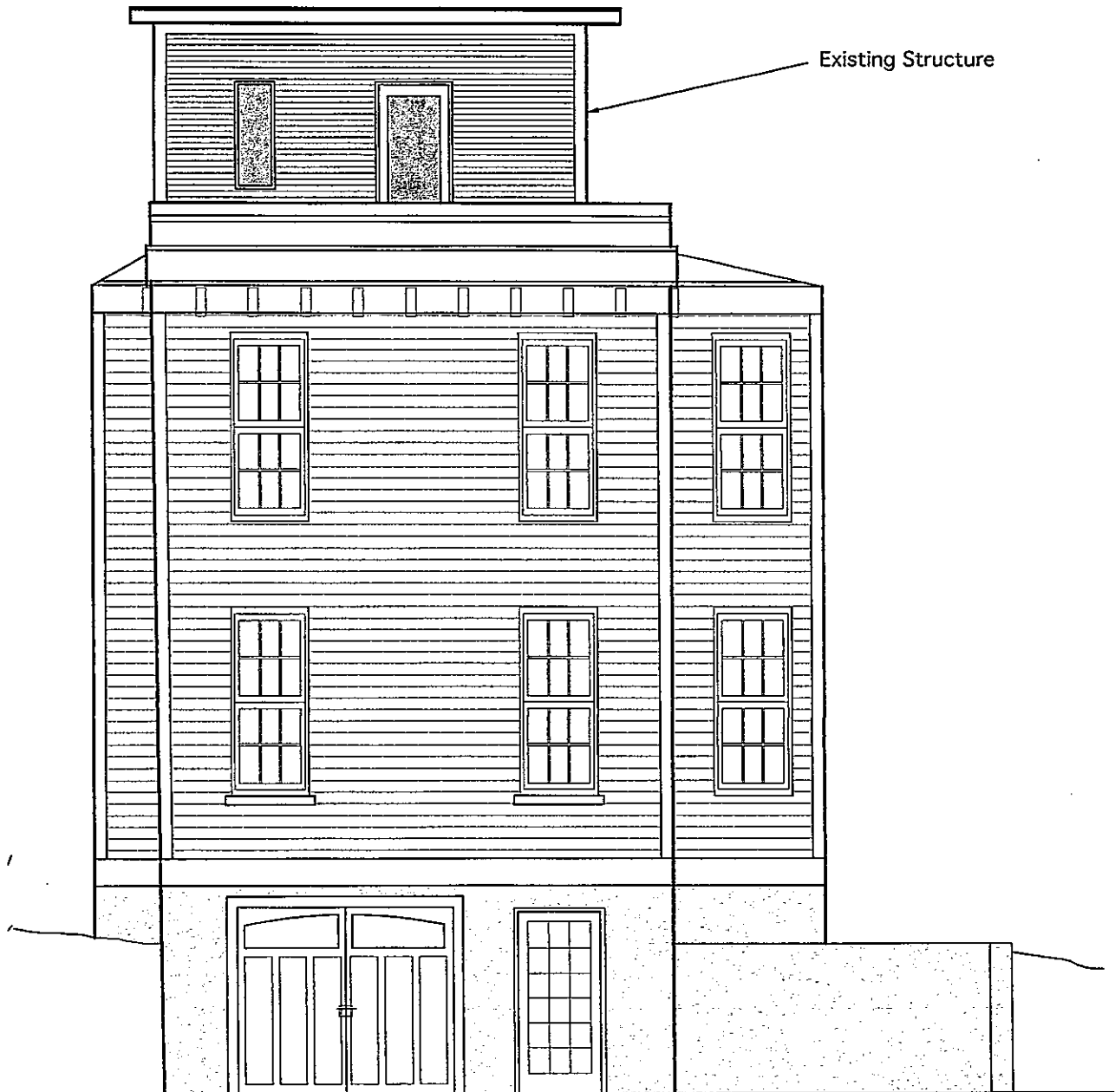
Set Backs

	Adjacent	SF-6	Average
Front	38'	25'	31.5'
Side	7/20'	7/16'	7/18'
Rear	114.5'	35'	75'




Proposed House for 3659
Heekin Ave.
Cincinnati, Ohio 45208

Sheet
S1
5/10/14



Front Elevation 1/4" = 1'0"

 <p>VISION BUILDERS GROUP 382-1977</p>	<p>Proposed House for 3659 Heekin Ave. Cincinnati, Ohio 45208</p>	<p>Sheet</p> <p>5/10/14</p>
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